

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

14 CR 26 (ARR)

4 versus

5 VINCENT ASARO,

U.S. Courthouse
225 Cadman Plaza East
Brooklyn, NY 11201
September 10, 2015

6 Defendant.

7 TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE

8 BEFORE THE HONORABLE ALLYNE ROSS

9 UNITED STATES DISTRICT JUDGE

10 APPEARANCES

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25 Proceedings recorded by mechanical stenography. Transcript
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LISA SCHMID, CCR, RMR

1 MS. MACEDONIO: Yes.

2 THE COURT: Okay.

3 MS. MACEDONIO: If we have it earlier, we will send
4 it in earlier.

5 THE COURT: Yes. That's fine. I guess the 21st at
6 the latest.

7 Okay. And what other motions are we going to have
8 or issues?

9 MS. MACEDONIO: I think in addition to the business
10 records exception with respect to the Katz homicide, the
11 government has also indicated that they were going to seek to
12 admit evidence with regard to uncharged homicides related to
13 the Lutfhansa heist, that the defendant was not implicated in.
14 They haven't formally given us details as to what they seek to
15 admit, so I would like to get some more detail on that and
16 then we'll respond to them.

17 THE COURT: So that's another -- that was something
18 that wasn't part of these motions, but --

19 MS. MACEDONIO: It was just a footnote.

20 MS. ARGENTIERI: It was in the motion, but it's not
21 the defendant's bad acts. And I had said to Ms. Macedonio
22 before this, I don't know what to extent we intend to get into
23 it.

24 But CW-1 will testify that after the Lutfhansa
25 heist, a bunch of people who participated in it were murdered,

1 not by the defendant. Had nothing to do with Mr. Asaro. And
2 it's relevant to him in a very small regard because at some
3 point, his own life was in danger and he was called to a
4 meeting with one of the participants in the heist and he
5 consulted with Mr. Asaro, who was in Florida at the time, and
6 said what should I do? They're calling me to this meeting.
7 And he gave him advice about how to protect himself.

8 THE COURT: Who gave who.

9 MS. ARGENTIERI: The defendant gave CW-1 advice.

10 THE COURT: CW-1 advice?

11 MS. ARGENTIERI: About how to protect himself, but
12 it's not another bad act because the defendant was actually --

13 THE COURT: He didn't do it.

14 MS. ARGENTIERI: He didn't do it. It wasn't his
15 idea. He was sort of telling CW-1 how to remain safe and CW-1
16 goes to the meeting and he brings the defendant's son with him
17 as a witness to wait outside. So he walks into the house to
18 meet with the person, you know, at some point, he mentions
19 like oh, Jerry's outside, and basically, nothing bad happens
20 to him.

21 But it's sort of like the aftermath of the Lufthansa
22 heist and what happens to all the participants and the money.
23 So that's really the only way that it would come in. It would
24 be very limited testimony. We're not seeking up to prove up
25 any of the murders in any other way.

1 THE COURT: Exactly what's going to be said about
2 the murders? What are you -- not exactly, obviously. But
3 what do you envision is the least you can getaway with?

4 MS. ARGENTIERI: So just as an example, Judge,
5 shortly after the Lutfhansa heist, they're moving the money.
6 They're cleaning the money. The money is being held and
7 they're not supposed to spend it. The defendant is with CW-1
8 at Robert's Lounge where everyone hung out.

9 Tommy DeSimone comes in who's a critical part of the
10 heist. He's part of the Richard Eaton homicide. And he says,
11 "I'm going to get straightened out tonight. They're going to
12 make me a captain." And the CW goes to say something because
13 that doesn't make sense. No one gets get straighten out and
14 made a captain the same day. And the defendant says, "Be
15 quiet," and then Tommy DeSimone disappears and later, Jimmy
16 Burke says that he was killed.

17 Oh, I'm sorry. Later, actually, the defendant is
18 with Jimmy Burke and CW-1 at his fence company. Jimmy Burke
19 comes in and he's crying and he says -- he's very upset, and
20 he says, "They killed Tommy. They killed Tommy."

21 That's not going to be offered for the truth of the
22 matter that they killed -- it's not even clear who killed
23 Tommy. We're not going to elicit that, but the fact that that
24 happened goes to the relationship of trust between them. It's
25 not a bad act on the part of -- so for example, it just goes

1 to their relationship and the enterprise and him knowing his
2 people and the existence of the conspiracy. So that -- but
3 that would be extent of that.

4 MS. MACEDONIO: That homicide?

5 MS. ARGENTIERI: That homicide.

6 MS. MACEDONIO: Right.

7 MS. ARGENTIERI: But that's it.

8 MS. MACEDONIO: If there are more.

9 THE COURT: Do we have to go into, you know --

10 MS. MACEDONIO: Right.

11 THE COURT: -- there were 12 people wiped out or
12 could we just talk about that one?

13 MS. ARGENTIERI: We could talk about that one,
14 Judge, and then I would say also the incident where he felt
15 like his life was also in danger. As background to that, he
16 would say that these other two people were found killed and it
17 was his understanding the guy that he had met with killed
18 them. That's why he was so nervous about going to the
19 meeting. But again, I don't really see how that reflects
20 poorly on the defendant, since --

21 THE COURT: I understand. But I can also understand
22 that we don't want to go through too much testimony about
23 extraneous murders --

24 MS. MACEDONIO: Right.

25 THE COURT: -- if they're not really at the heart of